



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**AUG 31 2016** ....

Brian G. Svoboda, Esq.  
Perkins Coie  
700 13th Street, NW, Suite 600  
Washington, DC 20005

RE: MUR 6996  
A Whole Lot of People for Grijalva  
Congressional Committee and  
Maya Castillo in her official  
capacity as treasurer

Dear Mr. Svoboda:

On January 7, 2016, the Federal Election Commission notified your clients, A Whole Lot of People for Grijalva and Maya Castillo in her official capacity as treasurer ("Committee"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On August 24, 2016, the Commission found, on the basis of the information in the complaint, and information provided by the Committee, that there is no reason to believe that the Committee violated 52 U.S.C. § 30104(b). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Allen".

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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## **FEDERAL ELECTION COMMISSION**

### **FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** A Whole Lot of People for Grijalva Congressional  
Committee and Maya Castillo in her official capacity  
as treasurer  
Amy Emerick-Clerkin  
Peter Clerkin

**MUR 6996**

#### **I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission. The Complaint in this matter alleges that Amy Emerick-Clerkin and Peter Clerkin embezzled funds from A Whole Lot of People for Grijalva Congressional Committee ("Committee"), the campaign committee of U.S. Representative Raul Grijalva, in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). As discussed below, the available information does not indicate that Respondents embezzled funds from the Committee. Therefore, the Commission finds no reason to believe that Amy Emerick-Clerkin or Peter Clerkin violated 52 U.S.C. § 30114(b)(1). The Commission also finds no reason to believe the Committee violated 52 U.S.C. § 30104(b).

#### **II. FACTUAL AND LEGAL ANALYSIS**

##### **A. Factual Background**

The Committee is the principal campaign committee of Representative Raul Grijalva, a candidate for reelection in Arizona's Third Congressional District in 2016. Amy Emerick-Clerkin is the Chief of Staff to Rep. Grijalva, and Peter Clerkin, her husband, is a former consultant to the Committee.<sup>1</sup> The Complainant alleges that in January 2015, she was informed by Laura Kaumo, a former fundraiser for the Committee, that Amy Emerick-Clerkin and Peter

<sup>1</sup> See Compl. at 1; Clerkins' Resp. at 1, Decl. of Peter Clerkin ¶ 1.

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Clerkin “were engaged in embezzlement of funds from [the Committee].”<sup>2</sup> The Complainant alleges that Kaumo “discovered that campaign cash and checks had gone missing at the hands of Mr. and Mrs. Clerkin, and that she kept detailed records of her concerns about the activity.”<sup>3</sup> The Complainant also alleges that Kaumo had “noticed multiple inconsistencies and irregularities made by Mr. Clerkin to the online fundraising database for [the Committee],” and that “[w]hen [Kaumo] raised concerns about the matter, she was blocked from access to the database.”<sup>4</sup> The Complainant alleges that a second source, Chris Kaumo, a staff member to Rep. Grijalva and Laura Kaumo’s husband, confirmed this information.<sup>5</sup>

In a joint response, Amy Emerick-Clerkin and Peter Clerkin (“the Clerkins”), deny the allegations.<sup>6</sup> In sworn declarations, the Clerkins deny having misappropriated or embezzled funds from the Committee and deny any knowledge of cash or checks going missing that would suggest misappropriation or embezzlement.<sup>7</sup> Additionally, Peter Clerkin denies making changes to the Committee’s fundraising database that resulted in inconsistencies or irregularities in the Committee’s reporting and recordkeeping.<sup>8</sup> The Clerkins also submitted sworn declarations from Laura Kaumo and Chris Kaumo averring that they had no knowledge that the Clerkins

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<sup>2</sup> Compl. at 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> According to the Clerkins, Complainant worked briefly in early 2015 for the House Committee on Natural Resources, on which Rep. Grijalva is the ranking member. Clerkins’ Resp. at 2.

<sup>7</sup> See Decl. of Amy Emerick-Clerkin ¶ 8; Decl. of Peter Clerkin ¶ 6.

<sup>8</sup> Decl. of Peter Clerkin ¶ 7.

embezzled funds from the Committee, and would have reported information regarding any embezzlement to Rep. Grijalva or the proper authorities.<sup>9</sup>

The Clerkins further assert that Complainant failed to provide information supporting an actual embezzlement or misappropriation; she merely reported hearing that campaign cash and checks had gone missing.<sup>10</sup> They maintain that Complainant offers no details about the allegedly missing funds, such as when the funds went missing, the names of the purported contributors, or the amounts that might help the Commission determine whether a misappropriation or embezzlement actually occurred, or give Respondents an opportunity to provide a detailed response.<sup>11</sup>

For its part, the Committee asserts that it did not receive any report of an embezzlement prior to the Complaint, which was filed eleven months after Complainant alleges she became aware of it.<sup>12</sup> The Committee further asserts that at the time of the alleged embezzlement, it maintained, and continues to maintain, internal controls to diminish the risk of embezzlement, and used a compliance firm from 2012 to 2015 to review its receipts and disbursements, enter items into the database, prepare and file reports, and perform reconciliations of the Committee's accounts.<sup>13</sup> The Committee asserts that it complied with the Commission's Statement of Policy concerning the Safe Harbor for Misreporting Due to Embezzlement.<sup>14</sup>

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<sup>9</sup> Decl. of Laura Kaumo ¶ 6; Decl. of Christopher Kaumo ¶ 7.

<sup>10</sup> Clerkins' Resp. at 2.

<sup>11</sup> *Id.*

<sup>12</sup> Committee Resp. at 1.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* See Statement of Policy, Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695 (Apr. 5, 2007).

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**B. Legal Analysis**

The Act prohibits any person from converting contributions to a federal candidate to personal use.<sup>15</sup> "Personal use" is defined as the use of funds in a campaign account of a federal candidate "to fulfill a commitment, obligation or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office."<sup>16</sup>

The Act also requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104.<sup>17</sup> These reports must include, *inter alia*, the total amount of disbursements, including the name and address of each person to whom an expenditure exceeding \$200 is made together with the date, amount, and purpose of the expenditure.<sup>18</sup>

The Complainant alleges Laura Kaumo informed her that Committee cash and checks went missing at the hands of the Clerkins, and that Chris Kaumo confirmed this information. The Kaumos, however, each provided a sworn declaration denying any knowledge of any embezzlement from the Committee, and of any inconsistencies or irregularities regarding the Committee's database that would suggest an embezzlement. Similarly, the Clerkins submitted sworn declarations denying that they embezzled funds from the Committee. The Complaint provides no other information supporting the allegations. Thus, there does not appear to be information to support the Complainant's allegations, or to conclude that the Committee

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<sup>15</sup> 52 U.S.C. § 30114(b)(1).

<sup>16</sup> 52 U.S.C. § 30114(b)(2).

<sup>17</sup> 52 U.S.C. § 30104(a)(1).

<sup>18</sup> See 52 U.S.C. § 30104(b)(4) and (5)(A).

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committed any related reporting violations. Therefore, the Commission finds no reason to believe that Amy Emerick-Clerkin or Peter Clerkin violated 52 U.S.C. § 30114(b)(1), and no reason to believe that the Committee violated 52 U.S.C. § 30104(b).

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